

Date: 01/16/14

JURY SELECTION  
Standard Voir Dire of Jurors  
Case Caption USA v Warner  
Criminal No. 12-0107

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 12-0107  
ELECTRONICALLY FILED

v.

EARL D. WARNER,

Defendant.

JUDGE: Instruct Deputy to swear the jury panel

DEPUTY: SWEAR the jury panel

JUDGE: Explain to the jury panel the following:

Federal Court vs. State Court

Civil vs. Criminal

Time commitment

Jury service is an important function of the administration of justice;

Someday you or a relative of yours may be involved with a case and wish to have a fair case.

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Explain that the purpose of the voir dire examination is:

To enable court to determine whether any prospective juror should be dismissed for cause;

To enable counsel for the parties to exercise their individual judgment with respect to peremptory challenges, that is, challenges for which counsel need not give a reason.

Inquire of the panel if anyone has just cause to be excused from serving as a juror (written or otherwise).

Any challenge to the panel as a whole?

**DEPUTY:** Inform the jurors of the logistics of the jury selection process in the courtroom.

Inform the jurors of the following (as a group):

The name and address of each of the parties.

**PROSECUTION:**

UNITED STATES OF AMERICA  
in the Western District of Pennsylvania

**DEFENDANT:**

EARL D. WARNER

2. Name and law firm of each counsel.

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For the Government appears:

Carolyn Bloch, Assistant United States Attorney  
United States Attorney's Office

For the Defendant appears:

David B. Chontos, Esq.

3. The nature of the suit.

The defendant, Mr. Warner, has been charged by superseding indictment with seven offenses. Counts One through Six charges the defendant with the crime of producing visual depictions, that is, still photographs and videos, of the sexual exploitation of minors. Count Seven of the superseding indictment charges the defendant with the crime of possessing visual depictions which depict the sexual exploitation of minors. The defendant has entered a plea of not guilty to the charges and has exercised his right to a trial by jury.

4. The caption of the case.

United States of America  
v.  
Earl D. Warner  
Criminal No. 12-0107

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JUDGE: Ask the following questions of the jurors (as a group)(if any answer would cause you embarrassment or lack of candor, please ask to meet with the Court privately at side bar with counsel):

1. Do you know the defendant?
2. Do you know any of the attorneys in the case? Have they or their firms ever represented you or any members of your immediate family?
3. Do you know anything about this case, other than what you heard this morning?
4. A few minutes ago you were provided a list of witnesses who may or may not be called to testify at trial. Please take a moment and review the names on the list...Do you know any of these witnesses?
5. Are you, or any member of your immediate family, employed by the federal government (with the exception of military service)? What do they do?
6. Are you or any member of your immediate family employed by any law enforcement agency?
7. Do you have any difficulty accepting the legal concept that the government is required by law to prove a defendant guilty beyond a reasonable doubt of the exact offenses charged in the indictment, and if the government fails to meet the burden of proving each and every element of the offenses charged beyond a reasonable doubt, you must find the defendant not guilty?
8. Do you have any difficulty accepting the legal concept that the

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defendant does not have to testify at trial, and that nothing can be inferred from his not doing so?

9. Do you have any difficulty accepting the legal concept that although the defendant has been charged with a crime by the United States, that fact does not mean that he is guilty of that crime; and that right now he is innocent, despite the fact that he has been accused in an indictment?
10. Do you have any difficulty accepting the legal concept that you should not believe the evidence and testimony presented on behalf of the United States, over the evidence and testimony presented on behalf of the defendant, merely because the United States is the prosecution and the defendant is accused of having committed certain crimes?
11. Do you, or any member of your immediate family, belong to any group or organization which is primarily concerned with issues and concerns related to the rights of victims or the rights of children?
12. Do you have strong feelings about the criminal justice system or the prosecution of criminal cases that would affect your ability to render a fair and impartial verdict in this case?
13. This case is being prosecuted following an investigation by law enforcement officials that include the PA State Police, FBI, U S Department of Justice, and the U S Attorney's Office. Do you have any strong feelings, either favorable or unfavorable, about law enforcement that would affect your ability to render a fair and impartial verdict in this case?
14. Have you, or any member of your immediate family, ever been affected by the enforcement of child pornography laws,

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obscenity laws, or the laws that govern and criminalize the sexual exploitation of children?

15. During this trial, you will be shown child pornography, including graphic images. Is there anything about the nature of the case and the related evidence that would keep you from rendering a fair and impartial verdict, based solely on the evidence presented in this courtroom, and the Court's instructions on the law?
16. Do you have beliefs about privacy or free speech that would make it difficult for you to be a fair and impartial juror in a case involving the production and possession of material that depicts minors engaged in sexually explicit conduct?
17. Do you have any views related to computers, the Internet, or technology generally, that would make it difficult for you to fairly consider forensic evidence or testimony?

DEPUTY: Call 32 jurors to jury box from the Judge's Jury List

JUDGE: Any challenge to the 32 jurors as a whole?

I will now be asking questions on an individual basis. Again, if you would prefer to answer the question in private, let me know and I will accommodate your request.

Ask the following questions of the 32 potential jurors:

18. What is your present occupation?
19. Who is your employer?
20. If you are retired, who was your last employer and what was your

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occupation?

21. Are you married? If so, what is your spouse's occupation and who is your spouse's employer?
22. Do you have any children? Do any of them work in the Western District of Pennsylvania? For whom do they work and what do they do?
23. Have you, or any member of your immediate family, ever been a witness or defendant in a criminal case?
24. Have you, or any member of your immediate family, ever been the victim of a crime?
25. Have you, or any member of your immediate family, ever served on a jury before?
26. Do you understand that you must determine whether the government has proven its case beyond a reasonable doubt?
27. Do you understand that you may not vote for a guilty verdict unless you are personally convinced that the defendant is guilty beyond a reasonable doubt?
28. Do you understand that you are to decide this case solely on the evidence presented in this courtroom and that you are to follow the law as instructed by the Court? Do you agree to do so?

JUDGE: Address any requests by counsel for follow-up questions.

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Address any challenges for cause

***If a ruling has been made to excuse a juror(s) based on challenge for cause:***

JUDGE: Court is to direct Deputy to replace the excused juror(s).

Court will then conduct individual voir dire on the newly seated juror(s).

Address any requests by counsel for follow-up questions as to the newly seated juror(s).

Address any challenges for cause

JUDGE: Voir dire is complete. 32 potential jurors have been seated.

Any challenge to the current 32 potential jurors as a whole before the commencement of the strike process?

BREAK for 10 minutes to allow counsel time to prepare for the strike process.

***Strike process occurs***

JUDGE: Direct Deputy to seat the jury.

DEPUTY: Formally seats 12 person jury and 2 alternate jurors.

JUDGE: Excuse unused jurors. Direct them to return to Jury Office on the 3<sup>rd</sup> floor for further instructions as to their jury service.

The Deputy has provided you with a Jury Questionnaire. Please take the time to complete the questionnaire and return it to the Jury Office before you leave today.

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Court directs Deputy to SWEAR the jurors.

DEPUTY: SWEAR the jurors.

JUDGE: Ask counsel if there is anything that they would like to place on the record prior to administering the Preliminary Charge to the jury.

Read Preliminary Charge.

JUDGE: At first break - direct the jurors to the jury room to receive basic juror instructions from the Deputy Clerk.